



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,586	03/03/2006	Maria Assunta Costa	1136-PCT-US	8745

7590 03/20/2008
Albert Wai Kit Chan
Law Offices of Albert Wai Kit Chan
World Plaza Suite 604
141 07 20th Avenue
Whitestone, NY 11357

EXAMINER

ROONEY, NORA MAUREEN

ART UNIT	PAPER NUMBER
----------	--------------

1644

MAIL DATE	DELIVERY MODE
-----------	---------------

03/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/557,586	Applicant(s) COSTA ET AL.	
	Examiner PHUONG HUYNH	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

I. Claims 1-13 are pending.

Election/Restriction

II. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Invention 1 Claims 1-7 and 11-13, drawn to a multimer protein molecule comprising at least a first amino acid sequence having substantially the sequence of one of the *Parietaria judaica* major allergens Par j 1 or Par j 2 and a second amino acid sequence having substantially the sequence of one of the *Parietaria judaica* major allergens Par j 1 or Par j 2 and a pharmaceutical comprising said multimer protein.

Invention 2 Claims 8-10, drawn to nucleic acid encoding a specific multimer protein at least a first amino acid sequence having substantially the sequence of one of the *Parietaria judaica* major allergens Par j 1 or Par j 2 and a second amino acid sequence having substantially the sequence of one of the *Parietaria judaica* major allergens Par j 1 or Par j 2, and recombinant vector.

The inventions listed as Inventions 1-2 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

A same or corresponding technical feature shared among Inventions 1-2 is a multimer protein allergen comprising at least a first amino acid sequence having substantially the sequence of one of the *Parietaria judaica* major allergens Par j 1 or Par j 2 and a second amino acid sequence having substantially the sequence of one of the *Parietaria judaica* major allergens Par j 1 or Par j 2 and a third sequence of the *Parietaria judaica* major allergens Par j 1 or Par j 2.

Art Unit: 1644

judaica major allergen par j1 or Par j2. However, the reference of Vrtala et al (FASEB J 15: 2045, September 2001; PTO 1449) teach recombinant multimeric protein allergen such as dimer and trimer of major birch pollen allergen Bet v1, see entire document, page 2045, col. 2, in particular). The recombinant trimer consisting of three covalently linked copies of the allergens is useful for inducing IgG antibodies in vivo and blocking IgE binding to Bet v1 and related allergens, see abstract, see page 2047, col. 2, in particular. Vrtala et al does not teach allergen from *Parietaria judaica* major allergens Par j 1 or Par j 2. However, Colombo et al (Int Arch Allergy Immunology 130: 173-179, March 2003; PTO 1449) teach such allergens from *Parietaria judaica* major allergens Par j 1 or Par j 2, see entire document, page 176, sequences in Table 2, in particular. Colombo et al teach recombinant rPar j1 and rPar j2 behave similarly and useful for diagnosis and therapy of Parietaria pollen allergy, see page 178, in particular. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the major birch pollen allergen Bet v1 in the trimer of Vrtala et al for the rPar j1 and rPar j2 as taught by Colombo et al which is useful for diagnosis and/or treating allergy associated with Parietaria pollen allergy.

Thus, the same or corresponding technical feature is not special since it was known in the prior art and therefore cannot make a contribution over the prior art. Since the inventions lack the same or corresponding special technical feature, then the inventions listed as Inventions 1-2 are not so linked as to form a single general inventive concept under PCT Rule 13.1.

- III. Accordingly, Groups 1-2 are not so linked as to form a single general inventive concept and restriction is proper.
- IV. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
- V. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message

Art Unit: 1644

may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (571) 273-8300.

- VI. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phuong Huynh/

Primary Examiner, Art Unit 1644

March 14, 2008